IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re the Application of:) Previous Group Art Unit: 3732
Richard Ginn) Previous Examiner: Eduardo C. Robert
Serial No.: Not Yet Assigned))
Filed: Herewith (February 5, 2004)))
For: Apparatus and Methods for Treating Spinal Discs)))

INFORMATION DISCLOSURE STATEMENT

MAIL STOP INFORMATION DISCLOSURE STATEMENT Commissioner for Patents P.O. Box 1450 Alexandria, VA 22313-1450

Sir:

In accordance with 37 CFR §§ 1.97 and 1.98, the items identified in this Information Disclosure Statement ("IDS") are brought to the attention of the Office. The items are listed on the attached form PTO-1449. Copies of the references were mailed to the USPTO on January 23, 2004 in Application Serial No. 09/947,785 filed on September 6, 2001 and are not enclosed.

The items identified in this IDS may or may not be "material" pursuant to 37 CFR § 1.56. The submission thereof by Applicant is not to be construed as an admission that any such patent, publication or other information referred to therein is material or considered to be material (37 CFR § 1.97(h)), or even qualifies as "prior art" under 35 USC § 102 with respect to this invention unless specifically designated by Applicant as such.

CERTIFICATE OF MAILING (37 C.F.R. §1.10)

I hereby certify that this paper (along with any referred to as being attached or enclosed) is being deposited with the United States Postal Service on the date shown below with sufficient postage as First Class Mail Post Office To Addressee in an envelope addressed to the MAIL STOP INFORMATION DISCLOSURE STATEMENT, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

Express Mail No. EV 339737965 US Date of Deposit: February 5, 2004

Lynne Fulmer

DOCSOC1:146800.1 704117-1 J2G

Information Disclosure Statement Filing Provision:

	three m	OS is believed to be timely in that it is being submitted under 37 CFR § 1.97(b), that is (1) on the filing date of the application, which is not a continued prosecution application .53(d); or (2) within three months of entry of the national stage as set forth in 37 CFR §
1.491;	or (3) b	efore the mailing of a first Office action on the merits; or (4) before the mailing of a first fter filing a request for continued examination under § 1.114. Thus, no fee is required.
Onico		
	<u>.</u>	However, if the undersigned is in error in this regard, Applicant respectfully requests that the Office consider this IDS as filed under 37 CFR § 1.97(c), if applicable, and charge the fee due under 37 CFR §1.17(p) to the deposit account referenced below.
		However, if the undersigned is in error in this regard, Applicant respectfully requests that the Office consider this IDS as filed under 37 CFR § 1.97(c), if applicable, and a statement under 37 CFR § 1.97(e) is included below, thus no fee is required.
on the 1 § 1.311	merits, t	OS is being submitted under 37 CFR § 1.97(c), that is after mailing of a first Office action out before a Final Action under 37 CFR § 1.113 or a Notice of Allowance under 37 CFR
		The fee due under 37 CFR § 1.17(p) is submitted herewith.
		A statement under 37 CFR § 1.97(e) is included below, thus no fee is required. In the event that this IDS is not received before a Final Action or a Notice of Allowance, then Applicant respectfully requests that the Office consider the filing of these papers to be submitted under 37 CFR § 1.97(d) and charge the fee due under 37 CFR § 1.17(p) to the deposit account below.
\$ 1.113 statement herewit	or a No	os is being submitted under 37 CFR § 1.97(d), that is after a Final Action under 37 CFR otice of Allowance under 37 CFR § 1.311, but before payment of the issue fee. A r 37 CFR § 1.97(e) is included below. The fee due under 37 CFR § 1.17(p) is submitted
	F1 '4	STATEMENT UNDER 37 CFR § 1.97(e):
		em contained in this IDS was cited in a communication from a foreign patent office
		Search Report dated June 21, 2002) in a counterpart foreign application not more than
three m		rior to the filing of this IDS.
Ш	_	n contained in this IDS was cited in a communication from a foreign patent office in a
		eign application, and, to the knowledge of the person signing this statement after making
reasona	ıble inqu	iry, no item of information contained in this IDS was known to any individual designated
in 37 C	FR § 1.:	56(c) more than three months prior to the filing of this IDS.

PAYMENT AND/OR AUTHORIZATION TO CHARGE FEES:

A check in the amount of is enclosed for the above fee(s).
Please charge to Deposit Account No. 150665 for the above fee(s).
The Commissioner is authorized to charge any fees required by the filing of these papers, and to credit
any overpayment to Orrick, Herrington & Sutcliffe's Deposit Account No. 150665.
Respectfully submitted,
ORRICK, HERRINGTON & SUTCLIFFE LLF
Dated: February 5, 2004 By: James W. Geriak, Reg. No. 20,233
4 Park Plaza, Suite 1600

4 Park Plaza, Suite 1600 Irvine, CA 92614 949/567-6700 Telephone 949/567-6710 Facsimile

FORM PTO-1449

LIST OF PATENTS AND OTHER ITEMS FOR APPLICANT'S INFORMATION DISCLOSURE STATEMENT

(Us s v ral sh ets if n c ssary)

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	ATTY. DOCKET NO.	SERIAL NO.
	704117.4011	Not Yet Assigned
	APPLICANT:	-
	Richard S. Ginn	
	FILING DATE:	PREVIOUS GROUP:
	Hamanith (Eab 2 2004)	2722

	,	U.S. PA	ATENT DOCUMENTS			
EXAMINER INITIAL	DOCUMENT NUMBER	DATE	NAME	CLASS	SUB CLASS	FILING DATE
	3,678,158	7/18/1972	Sussman			
	3,875,595	4/8/1975	Froning			
	3,941,127	3/2/1976	Froning		-	•
	3,944,114	3/16/1976	Coppens			-
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	4,439,423	3/27/1984	Smith			
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	4,744,364	5/17/1988	Kensey			
	4,772,287	9/20/1988	Ray et al.			
	4,852,568	8/1/1989	Kensey		-)(-	
	4,863,477	9/5/1989	Monson			
	4,878,915	11/7/1989	Brantigan			
	4,904,260	2/27/1990	Ray et al.			
	4,968,298	11/6/1990	Michelson			
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	5,021,059	6/4/1991	Kensey et al.			
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	5,114,032	5/19/1992	Laidlaw			
	5,123,926	6/23/1992	Pisharodi			
	5,192,301	· 3/9/1993	Kamiya et al.			
	5,192,302	3/9/1993	Kensey et al.			•

DOCSOC1:146797.1 704117-1 J2G	DATE CONSIDERED:
PREVIOUS EXAMINER Eduardo C. Robert	

EXAMINER: Initial if reference is considered, whether or not citation is in conformance with MPEP 609; Draw line through citation if not in conformance and not considered. Include a copy of this form with next communication to applicant

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(Us	S	veral	she	ts	if n	cessary

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Herewith (Feb. 2, 2004)	3732

	· · · · · · · · · · · · · · · · · · ·	
5,222,974	6/29/1993	Kensey et al.
5,275,616	1/4/1994	Fowler
5,306,254	4/26/1994	Nash et al.
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5,728,146	3/17/1998	Burkett, et al.
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5,830,125	11/3/1998	Scribner et al.
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Information Disclosure Statement – Section 9 PTO-1449

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APPLICANT: Richard S. Ginn	
FILING DATE: Herewith (Feb. 2, 2004)	PREVIOUS GROUP: 3732

	5,972,015	10/26/1999	Scribner et al.
	5,972,031	10/26/1999	Biedermann et al.
	6,001,130	12/14/1999	Bryan, et al.
	6,077,570	12/28/1999	Sharkey et al.
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DOCSOC1:146797.1 704117-1 J2G	DATE CONSIDERED:	
PREVIOUS EXAMINER Eduardo C. Robert		

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FORM PTO-1449 LIST OF PATENTS AND OTHER ITEMS FOR APPLICANT'S INFORMATION DISCLOSURE STATEMENT (Us s veral sh ts if n cessary) ATTY. DOCKET NO. 704117.4011 Not Yet Assigned APPLICANT: Richard S. Ginn FILING DATE: Herewith (Feb. 2, 2004) 3732

	US2002/0077701A1	Pub 6/20/2002	Kuslich		
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			FOREIGI	N PATENT DOCUMENTS				
EXAMINER INITIAL	•	DOCUMENT NUMBER	DATE	COUNTRY	CLASS	SUB CLASS	TRANS YES	LATION NO

OTHER DOCUMENTS (Including Author, Title, Date, Pertinent Pages, etc.)
PCT Publication No. WO 97/26847, "Articulating Joint Repair," Felt et al., 7/31/1987 PCT Publication No. WO 99/02214, "Interbody Device and Method for Treatment of Osteoporotic Vertebral
Collapse," Charles Ray et al., 1/21/1999
PCT Publication No. WO 00/69374, "Alloplastic Vertebral Disk Replacement," L. Easton et al. 11/23/00
PCT Publication No. WO 00/71032 A2, "Hemostatic Device for Angioplasty," Marius Saines 11/30/00
E.H. Cassinelli, M.D. et al., "Biochemistry of Intervertebral Disk Degeneration and the Potential for Gene Therapy Applications," SpineLine, The Clinical & News Magazine for Spine Care Professionals, Vol. 11, Issue 1, Jan-Feb. 2001
Philip P. Finch, et al., PCT Publication No. WO 01/45579 Amendment, "Apparatus for Thermal Treatment of an Intervertebral Disc", June 28, 2001.
Maurice Hiles, "New Specialty Polymer Products Through Interpenetrating Polymer Network (IPN) Technology – The Development of an Interpenetrating Polymer Network to Contain Mechanically Induced Vibration," Oct. 20-21, 1986, Colony Square Hotel, Atlanta, GA
William F. McKay, PCT Publication No. WO 01/45577 A2, "Intervertebral Disc Treatment Devices and Methods", June 28, 2001
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PREVIOUS EXAMINER Eduardo C. Robert		
EVALABLED. In: Holder Comments	1 11	

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